Supreme Court of the United States.

No. 503—October Term, 1903.

William H. Pope, Plaintiff in Error,
vs.
John M. C. Williams and John W. Harper, Officers of Registration constituting the Board of Registry for Election District No. 7 of Montgomery County, Maryland.

In error to the Court of Appeals of the State of Maryland.

[April 4, 1904.]

This is a writ of error to the Court of Appeals of the State of Maryland, to review its judgment affirming that of the Circuit Court for Montgomery County, which affirmed the proceedings of the board of registry of election district No. 7 of that county, refusing to register petitioner as a legal voter on the ground of his non-compliance with the Maryland law making it necessary for a person coming into the State, with the intention of residing therein, to register his name with the clerk of the Circuit Court of the proper county, and thereby to indicate the intent of such person to become a citizen and resident of the State.

The act in question was passed March 29, 1902, as chapter 133 of the laws of that year, and as an amendment and supplement to the Public General Laws of the State, title "Elections," sub-title "Registration," as section 25*b*, and it is reproduced in the margin.*

*Sec. 25*b*. All persons who after the passage of this act shall remove into any county of this State or into the city of Baltimore from any other State, District or Territory, shall indicate their intent to become citizens and residents of this State by registering their names in a suitable record book, to be procured and kept for the purpose by the clerk of the Circuit Court for the several counties, and by the clerk of the Superior Court of Baltimore city; such record to contain their names, residence, age and occupation; and the intent of such persons to become citizens and residents of this State shall date from the day on which such registry shall be so entered in such record book by the clerk of the Circuit Court for the county, or of the Superior Court of Baltimore city, as the case may be, into which county or city such person shall so remove from any other State, District or Territory. And no person coming into this State from any other State, District or Territory shall be entitled to registration as a legal voter of this State until one year after his intent to become such legal voter shall be thus evidenced by such entry in such record book, and such entry or a duly certified copy thereof shall be the only com-

Plaintiff in error on September 29, 1903, presented his application to the board of registry of election district No. 7, Montgomery County, Maryland, then sitting at a place within such district, to be registered and entered as a qualified voter on the registry of voters of that election district, which application the board refused and declined to comply with, for the sole reason that he had not complied with this law of Maryland. Thereafter the plaintiff presented a sworn petition to the Circuit Court for Montgomery County, in the State of Maryland, praying that court to enter an order to revise the action of the board of registry, and to order and direct that the name of the petitioner should be entered as a qualified voter on the registry of voters of the election district already named. In that sworn petition he alleged that he had on June 7, 1902, with his wife and child, removed from the city of Washington, District of Columbia, into Montgomery County, in the State of Maryland, "having then had and ever since and now having the intention of making the State of Maryland the permanent domicil of himself and his family, and of becoming a citizen of said State; and ever since said June 7, 1902, petitioner has resided in the subdivision of Otterbourne, near Chevy Chase, in said Montgomery County, and in the seventh election district of said county."

The petitioner further showed in his petition that he had made application to the proper board of registry in the election district mentioned, and the board had refused to enter his name as a qualified voter on the ground already stated, of non-compliance with the Maryland statute.

The petitioner admitted "that he did not within a year prior to said application for registration as a qualified voter, or at any time during the year 1902, in any manner, make or register, in the office of or before the clerk of Montgomery County, Maryland, or in a record book kept by said clerk, a declaration of intention to become a citizen and resident of Maryland, such as is required by the aforesaid law to be made by persons who remove into the State of Maryland after March 29, 1902, as a condition precedent to subsequent registration of such persons as qualified voters.

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petent and admissible evidence of such intent. And the clerk of the Superior Court of Baltimore city and of the several courts of the several counties shall immediately, upon the passage of this act, procure a suitable record book for the recording therein of such entries, arranged alphabetically under the names of such persons. For every person so registered under the provisions of this section they shall be entitled to demand and receive the sum of twenty-five cents, to be paid to said clerks by the mayor and city council of Baltimore and the county commissioners respectively. A copy of such record duly certified by said clerk shall be evidence of the right of such person to registration as legal voters according to law, and each person so registered shall be entitled to such certified copy upon demand without charge.

Petitioner, however, claims and asserts that said section 25*b* of article 33 of the Code of Public General Laws of Maryland affords no justification for said refusal to register your petitioner as a qualified voter, because said alleged law contravenes and is repugnant to the Constitution of the United States and the constitution of Maryland, and is, therefore, null and void."

The petitioner then asserts and sets forth in his petition several grounds which, as he therein alleges, render the State law a violation of the constitution of the State of Maryland, and he also specially sets up and claims that the law is a violation of the Constitution of the United States in the particulars named by him, and which are as follows:

"Said law is repugnant to that portion of section 1 of the Fourteenth Amendment of the Constitution of the United States, which declares that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside,' because by said law it is in effect ordained that male citizens of the United States of the age of twenty-one years and upwards, removing into the State of Maryland after March 29, 1902, with the intention of making said State their permanent domicil, shall not be treated as citizens or residents of Maryland, or given the rights and privileges of citizens of Maryland, until they have been naturalized in the mode prescribed by said law.

"Said law is also repugnant to that portion of section 1 of said Fourteenth Amendment to the Constitution of the United States which prohibits a State from denying any person within its jurisdiction the equal protection of the laws, because said law operates an unjust and unreasonable discrimination against citizens of the United States coming into the State of Maryland to permanently reside therein after March 29, 1902, who may desire to become qualified voters therein.

"Said law is also repugnant to the general spirit of the Constitution of the United States and the fundamental rights of citizens of the United States, which deny to a State the power to attach unreasonable or burdensome conditions to the free movement of citizens of the United States out of, into and settlement within the confines of any State, District or Territory within the United States."

To this petition there was a general demurrer, which was sustained by the court, which thereupon entered judgment dismissing the petition with costs to the defendants.

Mr. Justice PECKHAM, after making the above statement of facts, delivered the opinion of the Court.

This is not a case of a statute of the State having been passed subsequently to the time when the individual had removed from another State or from a Territory or from the District of Columbia into the State of Maryland. There is, therefore, no alteration of any possible rights which

the plaintiff in error might have already acquired and which he might claim were taken from him by the passage of such statute. On the contrary, this statute took effect on March 29, 1902, more than two months prior to the removal of the plaintiff in error from Washington in the District of Columbia to Montgomery County, within the State of Maryland. The objections of a Federal nature, which are made by the plaintiff in error, to the validity of the statute are set out in his petition, and are also contained in the above statement of facts, and are substantially reproduced in his assignment of errors.

We are of opinion that the statute does not violate any Federal right of the plaintiff in error which he seeks to assert in this proceeding. The statute, so far as it concerns him and the right which he urges, is one making regulations and conditions for the registry of persons for the purpose of voting. It was only for the purpose of thereafter voting that the plaintiff in error sought to be registered, and it was the denial of that right only which he can now review. His application for registry as a voter was denied by the board of registry solely because of his failure to comply with the statute. Whatever other right he may have as a citizen of Maryland by reason of his removal there with an intent to become such citizen, is not now in question. So far as appears no other right, if any he may have, has been infringed by the statute. The simple matter to be herein determined is whether, with reference to the exercise of the privilege of voting in Maryland, the legislature of that State had the legal right to provide that a person coming into the State to reside should make the declaration of intent a year before he should have the right to be registered as a voter of the State.

The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. (*Minor* v. *Happersett*, 21 Wall. 162.) It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution. The State might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in *Minor* v. *Happersett*, (*supra*,) such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens

should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constititution, already stated; although it may be observed that the right to vote for a member of Congress is not derived exclusively from the State law. See Federal Constitution, Art. 1, sec. 2; *Wiley* v. *Sinkler*, (179 U. S. 58.) But the elector must be one entitled to vote under the State statute. (Id., Id.) See also *Swafford* v. *Templeton*, (185 Id. 487, 491.) In this case no question arises as to the right to vote for electors of President and Vice President, and no decision is made thereon. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one. We do not wish to be understood, however, as intimating that the condition in this statute is unreasonable or in any way improper.

We are unable to see any violation of the Federal Constitution in the provision of the State statute for the declaration of the intent of a person coming into the State before he can claim the right to be registered as a voter. The statute, so far as it provides conditions precedent to the exercise of the elective franchise within the State, by persons coming therein to reside, (and that is as far as it is necessary to consider it in this case,) is neither an unlawful discrimination against any one in the situation of the plaintiff in error nor does it deny to him the equal protection of the laws, nor is it repugnant to any fundamental or inalienable rights of citizens of the United States, nor a violation of any implied guaranties of the Federal Constitution. The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution.

The reasons which may have impelled the State legislature to enact the statute in question were matters entirely for its consideration, and this court has no concern with them.

It is unnecessary in this case to assert that under no conceivable state of facts could a State statute in regard to voting be regarded as an infringement upon or a discrimination against the individual rights of a citizen of the United States removing into the State and excluded from voting therein by State legislation. The question might arise if an exclusion from the privilege of voting were founded upon the particular State from which the person came, excluding from that privilege, for instance, a citizen of the United States coming from Georgia and allowing it to a citizen of the United States coming from New York or any other State In such case an argument might be urged that, under the Fourteenth

Amendment of the Federal Constitution, the citizen from Georgia was by the State statute deprived of the equal protection of the laws. Other extreme cases might be suggested. We neither assert nor deny that in the case supposed the claim would be well founded that a Federal right of a citizen of the United States was violated by such legislation, for the question does not arise herein. We do, however, hold that there is nothing in the statute in question which violates the Federal rights of the plaintiff in error by virtue of the provision for making a declaration of his intention to become a citizen before he can have the right to be registered as a voter and to vote in the State.

The plaintiff in error has no ground for complaint in regard to the decision of the courts below, and the judgment of the Court of Appeals of Maryland is, therefore,

Affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.